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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/673,333	02/28/2001	Brian Miki	1096.001C	5110
23405	7590	02/05/2004	EXAMINER	
HESLIN ROTHENBERG FARLEY & MESITI PC			COLLINS, CYNTHIA E	
5 COLUMBIA CIRCLE			ART UNIT	
ALBANY, NY 12203			PAPER NUMBER	
			1638	

DATE MAILED: 02/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## **DETAILED ACTION**

### ***Response to Amendment***

The amendment filed on December 10, 2003 amending the claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because newly amended claim 21 and newly submitted claims 45-56 are directed to an isolated genomic DNA comprising nucleotides 1 to 2450 of SEQ ID NO:8 which exhibit promoter activity in seed coat, and are thus directed to the non-elected invention of group VI set forth at pages 2-3 of the restriction requirement mailed January 27, 2003 and withdrawn from consideration at page 2 of the office action mailed September 8, 2003. As a consequence of the amendment filed on December 10, 2003, all of the claims pending in the instant application are directed to non-inventions.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

### ***Remarks***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia Collins whose telephone number is (571) 272-0794. The examiner can normally be reached on Monday-Friday 8:45 AM -5:15 PM.

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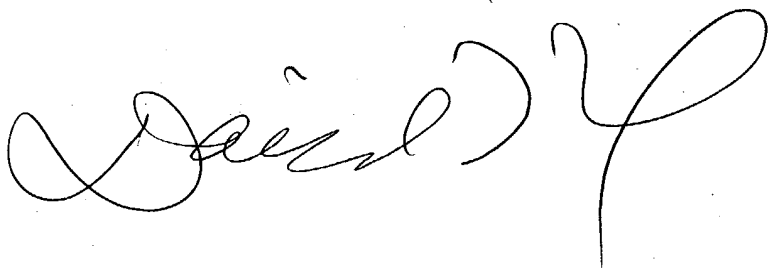
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson can be reached on (571) 272-0804. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CC  
January 29, 2004

DAVID T. FOX  
PRIMARY EXAMINER  
GROUP 180

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A large, stylized handwritten signature in black ink, likely belonging to David T. Fox, the Primary Examiner.